

REISMAN·SOROKAC  
8965 SOUTH EASTERN AVENUE, SUITE 382  
LAS VEGAS, NEVADA 89123  
PHONE: (702) 727-6258 FAX: (702) 446-6756

Joshua H. Reisman, Esq.  
Nevada Bar No. 7152  
REISMAN·SOROKAC  
8965 South Eastern Avenue, Suite 382  
Las Vegas, Nevada 89123  
Telephone: (702) 727-6258  
Facsimile: (702) 446-6756  
Email: jreisman@rsnvlaw.com

Attorneys for Defendant *Med James, Inc.*

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA**

LUIS LOPEZ, an individual

Plaintiff,

vs.

RAYMOND JOSEPH NOGERA, and individual;  
KEY INSURANCE COMPANY, a foreign  
corporation; MED JAMES, INC., a foreign  
corporation; DOES I through X; and ROE LEGAL  
ENTITIES I through X,

Defendants.

CASE NO. 2:25-cv-00721-RFB-MDC

**MOTION TO AMEND PETITION FOR  
REMOVAL**

Defendant Med James, Inc. ("MJ"), by and through its attorney, Joshua H. Reisman, Esq., of the law firm Reisman Sorokac, hereby files its Motion to Amend Petition for Removal (the "Motion").

This motion is made and based upon the upon the papers and pleadings on file, the following Memorandum of Points and Authorities, and any oral argument permitted or required by this Court.

**MEMORANDUM OF POINTS AND AUTHORITIES**

**1. STATEMENT OF FACTS AND PROCEDURAL BACKGROUND**

MJ filed its Petition for Removal on April 24, 2025 (the "Petition"). (*See* ECF No. 1.) On May 23, 2025, Plaintiff filed a Motion to Remand, (ECF No. 10), arguing that MJ's Petition was deficient because it "fails to allege the citizenship of *any* party[.]" *Id.* at 2. On June 6, 2025, MJ

1 filed an Opposition to Plaintiff's Motion to Remand establishing the citizenship of all parties and  
 2 demonstrating that removal was proper. (*See* ECF No. 16.) MJI now moves for leave to file an  
 3 amended Petition to supplement the jurisdictional allegations supporting diversity jurisdiction (the  
 4 "Amended Petition"). Pursuant to Local Rule LR1 16-1(a), the proposed Amended Petition is  
 5 attached hereto as Exhibit A.  
 6

## 7 **2. ARGUMENT**

8 "28 U.S.C. § 1653 [] provides that 'defective allegations of jurisdiction may be amended,  
 9 upon terms, in the trial or appellate court[,] . . . [and] this statute applies to removed action as well  
 10 as to those initiated in United States District Courts." *Barrow Development Co. v. Fulton Ins. Co.*,  
 11 418 F.2d 316, 317 (9th Cir. 1969); *see also Lindley Contours, LLC v. AABF Fitness Holdings, Inc.*,  
 12 414 Fed. Appx. 62, at \*64, 2011 U.S. App. LEXIS 2500, at \*\*5 (9th Cir. 2011) (granting motion  
 13 for leave to file an amended notice of removal in the Ninth Circuit (citing *Snell v. Cleveland, Inc.*,  
 14 316 F.3d 822, 828 (9th Cir. 2002) ("Under 28 U.S.C § 1653, we have the authority to grant leave to  
 15 amend a complaint in order to cure defective allegations of jurisdiction.")); *see also Kanter v.*  
 16 *Warner-Lambert Co.*, 265 F.3d 853, 858 (9th Cir. 2001) (citing *Jacobs v. Patent Enforcement Fund,*  
 17 *Inc.*, 230 F.3d 565, 568 n.3 (2d Cir. 2000), for the proposition that "[a]n inadequate pleading does  
 18 not in itself constitute an actual defect of federal jurisdiction").  
 19  
 20

21 "[A] defendant may amend the Notice of Removal after the thirty day window has closed to  
 22 correct a 'defective allegation of jurisdiction.'" *ARCO Env'tl. Remediation, L.L.C. v. Department of*  
 23 *Health & Env'tl. Quality*, 213 F.3d 1108, 1117 (9th Cir. 2000) (citing 28 U.S.C. § 1653); *see also 16*  
 24 *Moore's Federal Practice* § 107.30[2][a][iv] ("Amendment may be permitted after the 30-day  
 25 period if the amendment corrects defective allegations of jurisdiction, but not to add a new basis for  
 26 removal jurisdiction."). "An amendment may correct an imperfect statement of citizenship, or state  
 27 the previously articulated grounds more fully, or correct the jurisdictional amount." *Wigley v.*  
 28

1 *Aircraft Serv. Int'l Group*, Case No. CV 09-6101 AHM (RCx), 2009 U.S. Dist. LEXIS 119525, at  
2 \*9 (C.D. Cal. Nov. 30, 2009) (quotation omitted).

3 "Section 1653 is to be read in conjunction with Rule 15(a) to allow defective allegations of  
4 jurisdiction to be amended by leave of court and leave shall be freely given when justice so requires."  
5 *Id.* at \*8-9 (quoting *Swartz v. Prudential Healthcare, Inc.*, 78 Fed. Appx. 598, 599 (9th Cir. 2003))  
6 (cleaned up). "Parties may amend pleadings under Rule 15 to cure a technical defect in the  
7 jurisdictional allegation, namely, to allege diversity of citizenship in full." *Hawaii v. Abbott Labs,*  
8 *Inc.*, 469 F. Supp. 2d 842, 847 (D. Hawaii 2006) (citing cases permitting amendment to notices of  
9 removal under Fed. R. Civ. P. 15(a)).

10  
11 The Ninth Circuit's "general practice" with respect to amendments under Rule 15 "is to freely  
12 give leave to amend when justice so requires." *United States v. \$11,500.00 in U.S. Currency*, 710  
13 F.3d 1006, 1013 (9th Cir. 2013) (cleaned up). "This policy is to be applied with extreme liberality."  
14 *Eminence Cap., LLC v. Aspeon, Inc.*, 316 F.3d 1048, 1051 (9th Cir. 2003) (quotation omitted).  
15 "Absent prejudice, or a strong showing of the other factors, such as undue delay, bad faith, or  
16 dilatory motive, there exists a presumption under Rule 15(a) in favor of granting leave to amend."  
17 *AmerisourceBergen Corp. v. Dialysist W., Inc.*, 465 F.3d 946, 957 (9th Cir. 2006) (quotation  
18 omitted).

19  
20 Here, the Court should freely grant MJI leave to file its Amended Petition. No prejudice  
21 will result to Plaintiff, and there has been no undue delay, bad faith or dilatory motive on MJI's part.  
22 MJI is promptly seeking leave to amend its Petition shortly after Plaintiff raised the issue in its May  
23 23, 2025, Motion to Remand.

24  
25 With regard to the substance of the Amended Petition, as demonstrated in its Opposition to  
26 Motion to Remand, (ECF No. 16), MJI is easily able to demonstrate the citizenship of all of the  
27  
28

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parties<sup>1</sup> and that removal was appropriate. (*See also* Ex. A, attached hereto.) Accordingly, this Court should do as numerous courts in the Ninth Circuit—including this very Court—have done, and grant MJI leave to amend its Petition to include proper citizenship information. *See, e.g., Jenkins v. Commonwealth Land Title Ins. Co.*, 95 F.3d 791, 794 (9th Cir. 1996) (concluding that "[w]hatever formal defect existed by virtue of Commonwealth's statement in its notice of removal that Jenkins is a 'resident' of Hawai'i rather than a citizen was [] cured by the amendment [to the notice of removal] . . . [and] the amended pleadings therefore establish that Jenkins and Commonwealth are citizens of different states, so diversity jurisdiction exists over this case under 28 U.S.C. § 1332" (emphasis added)); *Lindley Contours, LLC*, 414 Fed. Appx. at \*65 (providing, on appeal, "several opportunities to correct defects [regarding allegations of citizenship] in [appellees'] notice of removal"); *Pena v. Nev. Prop. 1, LLC*, Case No. 2:24-cv-00408-RFB-DJA, 2024 U.S. Dist. LEXIS 191350, at \*6, 2024 WL 4542671 (D. Nev. Oct. 21, 2024) (**Boulware, J.**) (permitting defendant to amend petition for removal to properly explain its citizenship as an LLC); *Martinez v. Blue Force Express Inc.*, No. CV-20-01085-PHX-DWL, 2020 U.S. Dist. LEXIS 105244, at \*4 (D. Ariz. June 16, 2020) (requiring amended notice of removal to allege citizenship to cure deficient allegations of residency); *City of Elko v. Ville 837, LLC*, Case No. 3:24-CV-00214-CLB, 2024 U.S. Dist. LEXIS 120704, at \*3 (D. Nev. July 10, 2024) (granting motion to amend petition for removal to include proper citizenship information); *see also Kanter*, 265 F.3d at 857-58 (agreeing with district court that defendant "could potentially have cured its defective allegations

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<sup>1</sup> As to Defendant Raymond Nogera ("Nogera"), because he was fraudulently joined in this action, his "presence in the lawsuit is ignored for purposes of determining diversity[.]" *Weeping Hollow Ave. Tr. V. Spencer*, 831 F.3d 1110, 1113 (9th Cir. 2016) (quotations omitted); 28 U.S.C. § 1441(b)(2) (referring to "properly joined" defendants); *United Computer Sys., Inc. v. AT & T Corp.*, 298 F.3d 756, 762 (9th Cir. 2002) ("Because Stredicke was a fraudulently joined defendant, her citizenship is not relevant for purposes of diversity jurisdiction."). Accordingly, Nogera's citizenship did not need to be alleged for purposes of establishing diversity jurisdiction. Regardless, MJI's Amended Petition establishes that Nogera is a Nevada citizen.

1 regarding citizenship by amending its notice of removal[," where notice of removal contained  
 2 "pleading defect" stating that plaintiffs were residents of California but failing to specify their state  
 3 of citizenship); *Good v. Google LLC*, Case No. 22-cv-05622-JSC, 2022 U.S. Dist. LEXIS 220028,  
 4 at \*9 (N.D. Cal. Dec. 6, 2022) ("A defendant may amend its notice of removal to correct defective  
 5 jurisdictional allegations—such as the failure to specify a party's citizenship—so long as the basis  
 6 for removal (e.g., diversity jurisdiction) remains the same as in the original notice of removal.").

### 8 3. CONCLUSION

9 Based upon the foregoing, MJJ respectfully requests that the Court grant this Motion and  
 10 permit MJJ to file its Amended Petition.

11 DATED this 9<sup>th</sup> day of June, 2025.

12 REISMAN·SOROKAC

13 /s/ Joshua H. Reisman, Esq.

14 Joshua H. Reisman, Esq.  
 15 Nevada Bar No. 7152

16 Attorneys for Defendant *Med James, Inc.*

17  
 18 IT IS SO ORDERED. The Motion  
 19 is granted. Plaintiff does not  
 20 oppose. ECF Nos. 21 and 23.

21   
 22 Hon. Maximiliano D. Couvillier III  
 23 United States Magistrate Judge  
 24 Dated: 6-27-25  
 25  
 26  
 27  
 28

**CERTIFICATE OF SERVICE**

Pursuant to FRCP 5, I hereby certify that on the 9<sup>th</sup> day of June, 2025, a true and correct copy of the foregoing **MOTION TO AMEND PETITION FOR REMOVAL** was served through the Court's CM/ECF System on all parties registered therewith.

/s/ Karla Guillen-Morales  
An employee of REISMAN·SOROKAC

REISMAN·SOROKAC  
8965 SOUTH EASTERN AVENUE, SUITE 382  
LAS VEGAS, NEVADA 89123  
PHONE: (702) 727-6258 FAX: (702) 446-6756